

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE

CEPHALON, INC.,)
)
)
Plaintiff,)
)
)
v.) C.A. No. 14-1117-GMS
)
)
NANG KUANG PHARMACEUTICAL CO., LTD.)
and CANDA NK-1, LLC,)
)
)
Defendants.)

NOTICE OF VOLUNTARY DISMISSAL

WHEREAS, Plaintiff Cephalon, Inc. (“Cephalon”) filed this Action against Defendants Nang Kuang Pharmaceutical Co., LTD and CANDA NK-1, LLC (“Defendants”) on September 2, 2014;

WHEREAS, Cephalon filed Case No. 14-cv-5180-SJ-RER in the United States District Court for the Eastern District of New York on September 3, 2014, which pursuant to 21 U.S.C. § 355(j)(5)(B)(iii) was filed within 45 days of Cephalon receiving notice from Defendants pursuant to 21 U.S.C. § 355(j)(2)(B) and effectively stayed the United States Food & Drug Administration from granting final approval of Defendants’ Abbreviated New Drug Application (“ANDA”) number 206554;

WHEREAS, the parties have agreed to litigate their patent infringement dispute concerning Cephalon’s U.S. Patent No. 8,445,524, United States Patent No. 8,436,190, United States Patent No. 8,609,863, and U.S. Patent No. 8,791,270 and Defendants’ ANDA No. 206554 in the lawsuit pending in the United States District Court for the Eastern District of New York, Case No. 14-cv-5180-SJ-RER;

WHEREAS, Defendants filed their Answer to Cephalon's complaint in the lawsuit pending in the United States District Court for the Eastern District of New York, Case No. 14-cv-5180-SJ-RER, and did not oppose the exercise of personal jurisdiction or venue in the district for the purpose of litigating that case; and

Pursuant to Rule 41(a)(1)(A)(i) of the Federal Rules of Civil Procedure, Cephalon hereby dismisses, without prejudice, any and all claims asserted against Defendants in its Complaint, which was filed with the Court via CM/ECF on September 2, 2014. Defendants have not answered or otherwise moved as to the Complaint.

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Dated: September 30, 2014